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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,502	03/29/2001	Lorin Evan Ullmann	AUS920010164US1	5093

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EXAMINER	
TANG, KAREN C	
ART UNIT	**PAPER NUMBER**
2451	

NOTIFICATION DATE	DELIVERY MODE
10/21/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptonotifs@yeeiplaw.com

Office Action Summary	Application No.	Applicant(s)	
	09/820,502	ULLMANN ET AL.	
	Examiner	Art Unit	
	KAREN C. TANG	2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 December 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-45* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

- This action is responsive to the amendment and remarks file on 11/15/07.
- Claims 1-45 are presented for further examination.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-45 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yavatkar et al hereinafter Yavatkar (US 6,735,702) in view of Deshpande (US 7,149,291) further view of Mawhinney et al hereinafter Mawhinney (US 6,826,620).

1. Referring to Claims 1, 16, and 31, Yavatkar discloses a method distributed data comprising (network which share information, refer to Col 1, Lines 10-25): monitoring network packets (Col 4, Lines 1-3 and Col 15, Lines 65-66) within a processing system, the method monitoring multiple sources (nodes, refer to Col 1, Lines 10-25) of network packets (refer to Col 1, Lines 55-67) within distributed data processing system; identifying a source of network

packets (refer to Col 1, Lines 55-67) that satisfy one or more predetermined conditions (precondition such as a set buffer length and rates, refer to Col 7, Lines 15-30); alerting a system administrator (watch dog agent, refer to Col 3, Lines 55-67, and Col 4, Lines 1-5, which monitors and detect information/packets) the identified source network packets.

Although Yavatkar disclosed the invention substantially as claimed, Yavatkar did not explicitly disclosing "as generating network packets having characteristics directly related packet size of individual packets of the network packets."

Deshpande, in analogous art, disclosing "as generating network packets having characteristics directly related packet size of individual packets of the network packets (packets characteristics is relating to individual packet size, refer to Col 2, Lines 60-67)."

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Yavatkar and Deshpande because Deshpande's teaching of "as generating network packets having characteristics directly related packet size of individual packets of the network packets" would improve Yavatkar's system performance by having a method to expertise the time to identify/classify the packet (as supported by Mawhinney, refer to Col 3, Lines 30-35).

2. Referring to Claims 2, 17, and 32, although Yavatkar disclosed the invention substantially as claimed, Yavatkar is silent in regarding "wherein a predetermined condition of the one or more predetermined conditions is a packet size less than packet size threshold value"

Deshpande, in analogous art, disclosing "wherein a predetermined condition of the one or more predetermined conditions is a packet size less than packet size threshold value (refer to abstracts)."

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Yavatkar and Deshpande because Deshpande's teaching of wherein a predetermined condition of the one or more predetermined conditions is a packet size less than packet size threshold value" would improve Yavatkar's system performance by having a method to expertise the time to identify/classify the packet.

3. Referring to Claim 6, 21, and 36, Yavatkar discloses response to a request of the system administrator (agent), halting execution of the identified source (refer to Col 9, Lines 25-30).

4. Referring to Claims 7, 22, and 37, Yavatkar discloses response to a request of the system administrator (agent), pausing (halt is the type of the pausing) execution of the identified source (refer to Col 9, Lines 25-30).

5. Referring to Claims 8, 23, and 38, Yavatkar discloses initiating packet snooping session (referring to Claim 13, Lines 55-67).

6. Referring to Claims, 9, 24, and 39, Yavatkar discloses deploying distributed packet snoopers (bloodhound agent) from a packet usage manager (software modules, refer to Col 3,

Lines 25-35) monitor the multiple sources of network packets (which order the bloodhound agent to collect/monitor attack traffic/multiple sources of network packets).

7. Referring to Claims 10, 25, and 40, Yavatkar discloses receiving packet filtering parameters at each of the distributed packet snooper (using agents to collect information about network situation, refer to Col 4, Lines 24-30); matching packet filtering parameters against transmitted packets (packet filtering parameters such as a set transmitting rate for the buffer, if the transmitted packets exceed the buffer limitation, the packet can be dropped, refer to Col 7, Lines 19-28); and returning packet usage events (information is available for the agents to collect which would sent it to the software modules, which is the packet usage manager) to the packet usage manager response to a determination a packet surpassed a limitation specified by the packet filtering parameters (which in case of congestion happened, the software module would halt (determination and act upon the event) the execution, refer to Col 3, Lines 35-37).

Although Yavatkar disclosed the invention substantially as claimed, Yavatkar did not explicitly disclosing "wherein the packet filtering parameters specify at least a packet type and a packet size of a packet."

Deshpande, in analogous art, disclosing "wherein the packet filtering parameters specify at least a packet type (distinguishing characteristics of data, refer to Col 3, Lines 20-22) and a packet size of a packet (packets characteristics is relating to individual packet size, refer to Col 2, Lines 60-67)."

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Yavatkar and Deshpande because Deshpande's teaching of "as generating

network packets having characteristics directly related packet size of individual packets of the network packets" would improve Yavatkar's system performance by having a method to expertise the time to identify/classify the packet (as supported by Mawhinney, refer to Col 3, Lines 30-35).

8. Referring to Claims 11, 26, and 41, Yavatkar discloses receiving a request for an action a target resource within the distributed data processing system (within network 4, nodes 48 transmit information to nodes 30, 44, 46, and 48 which accept information/request, refer to Col 7, Lines 42-60), wherein completion the action depends upon operations set resources along a logical route through the distributed data processing system, wherein the request for the action the target resource (node 44) associated with user or an application (Management console application 9).

9. Referring to Claims 12, 27, and 42, Yavatkar discloses deriving one of the packet filtering parameters (when buffer become full, refer to Col 7, Lines 10-25) from an application (management console application 9) or a user associated with the request target for the action at the target resource (agent gather information from the source, refer to Col 3, Lines 25-60, which can access resources such an OS 5, or Network 4.).

10. Referring to Claim 13, 28 and 43, Yavatkar discloses selecting by the system administrator (agents which monitor information within the network such as nodes, refer to Col 3, Lines 54-67 and Col 4, Lines 1-47) one the packet filtering parameters (buffer quotas) by

choosing among a plurality of active applications or users (nodes) within the data processing system (refer to Col 7, Lines 10-30).

11. Referring to Claims 14, 29, and 44, Yavatkar discloses deriving set logical routes (tracing traffic/routes) from a network topology mapping (refer to Col 17, Lines 1-10), wherein each logical route is a series of endpoints (target node/nodes within the network are a series of endpoints which supports routing capability, refer to Col 7, Lines 45-46, nodes 30, 44, 46, and 48 are routers) that comprise an endpoint-to-endpoint route for completing requested action.

12. Referring to Claim 15, 30, and 45, Yavatkar discloses displaying the identified source of network packets system administrator in real time (it is known that the computer network communication within the WAN and LAN using PC, Laptop or Workstation via TCP/IP is running in the real time to transport information, refer to Col 1, Lines 10-35, and Col 4, Lines 15-24).

13. Referring to Claims 3, 18, and 33, Yavatkar disclosed the invention substantially as claimed, Yavatkar did not explicitly disclosing wherein a predetermined condition of the one or more predetermined condition is a computed percentage value of an actual packet payload size in comparison to a maximum available packet payload size.

Deshpande, in analogous art, disclosing wherein a predetermined condition of the one or more predetermined condition is a computed percentage value of an actual packet payload size in

comparison to a maximum available packet payload size (compared the size of the data with the free spaces available in the inbound queue, refer to Col 3, Lines 55-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Yavatkar and Deshpande because Deshpande's teaching of "as generating network packets having characteristics directly related packet size of individual packets of the network packets" would improve Yavatkar's system performance by having a method to expertise the time to identify/classify the packet (as supported by Mawhinney, refer to Col 3, Lines 30-35).

14. Referring to Claims, 4, 19, and 34, Yavatkar disclosed the invention substantially as claimed, Yavatkar did not explicitly disclosing wherein a predetermined condition of the one or more predetermined conditions is a count of a number of packets, wherein the number of packets is the number of individual packets having a packet size less than a predetermined packet size threshold value that exceeded a predetermined maximum count threshold.

Deshpande, in analogous art, wherein a predetermined condition of the one or more predetermined conditions is a count of a number of packets, wherein the number of packets is the number of individual packets having a packet size less than a predetermined packet size threshold value that exceeded a predetermined maximum count threshold (refer to Col 3, Lines 44-62).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Yavatkar and Deshpande because Deshpande's teaching of "as generating network packets having characteristics directly related packet size of individual packets of the

network packets" would improve Yavatkar's system performance by having a method to expertise the time to identify/classify the packet (as supported by Mawhinney, refer to Col 3, Lines 30-35).

15. Referring to Claims 5, 20, and 35, Yavatkar disclosed the invention substantially as claimed, Yavatkar did not explicitly disclosing wherein a predetermined condition of the one or more predetermined conditions is a computed percentage value of a number of packets, where the number of packets is the number of individual packets having a packet size less than a predetermined packet size threshold value, in comparison to a number of packets from the identified source of network packets.

Yavatkar does not indicate the system count the number of packets that exceed a predetermined maximum count threshold value.

Deshpande, in analogous art, discloses wherein a predetermined condition of the one or more predetermined conditions is a computed percentage value of a number of packets, where the number of packets is the number of individual packets having a packet size less than a predetermined packet size threshold value, in comparison to a number of packets from the identified source of network packets (compared the size of the data with the free spaces available in the inbound queue, refer to Col 3, Lines 55-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Yavatkar and Deshpande because Deshpande's teaching of "as generating network packets having characteristics directly related packet size of individual packets of the network packets" would improve Yavatkar's system performance by having a method to

expertise the time to identify/classify the packet (as supported by Mawhinney, refer to Col 3, Lines 30-35).

Conclusion

Examiner's Notes: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571)272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/K. C. T./
Examiner, Art Unit 2451

/John Follansbee/
Supervisory Patent Examiner, Art Unit 2151